

Opening Statement of Chairman Fred Upton
Committee on Energy and Commerce
Full Committee Markup of H.R. 1343, H.R. 1217, H.R. 1216, H.R. 1215, H.R. 1214,
H.R. 1213
(Remarks Prepared for Delivery)

Good morning. We are here today to consider a series of bills that share a common theme: protecting the American taxpayer. We will vote today on five bills to repeal unaccountable mandatory spending in the health care law – some of which is better authorized to be funded through the discretionary process if Congress deems it a priority, and some of which should be eliminated altogether. We will also consider legislation to ensure reclaimed broadband stimulus funds can be returned to the U.S. Treasury.

Three months ago today, John Boehner assumed the Speaker's gavel and began a transformation of the House. We said we would focus on jobs, and we have. We said we would cut spending, and we have. We said we would vote to repeal the unpopular health care law to pave the way to replace it with something better, and we have. Yesterday I reported to my colleagues and the House leadership on what we have accomplished here at the Energy and Commerce Committee in the first quarter of 2011. Thirty hearings. Substantive investigations uncovering little-known programs and spending in the health care law. Bipartisan support for key legislation. And as I reported yesterday, we are just getting started. The bills we are voting on today fit with this record of accomplishment on behalf of the American people. So let's get started.

We all know the health reform package was rushed to a vote, and no one actually expected the Senate bill to become law. All the warts and in-artful legislative drafting were going to be addressed during the House and Senate Conference. Then Scott Brown was elected and the Senate no longer had the votes to pass this controversial bill. Rather than go to a conference and negotiate a compromise, the Senate bill was jammed through the House. Republicans could not amend it, nor could Democrats to change even its obvious flaws. For example, the Senate authors exempted leadership and committee staff from being forced to buy insurance in the exchange. Certainly an exemption for leadership staff was not the intent of the authors. But by circumventing regular order, there wasn't an opportunity to fix it.

Another egregious example was to provide the Secretary of Health and Human Services (HHS) an unlimited tap on the federal treasury. Section 1311(a) of PPACA provides the secretary a direct appropriation of such sums as necessary for grants to states to facilitate the purchase of qualified health plans in newly created Exchanges. The secretary can determine the amount of spending and spend the funds without further congressional action. The legislative language was written so broadly that the only real restriction on what can be funded is how the secretary defines terms such as "facilitate enrollment."

I will give my friends on the other side of the aisle the benefit of the doubt. You probably intended to fix this in conference. When drafting it the authors didn't have time to determine the cost of the program and wrote a blank to be filled in later. Unfortunately, later never came and now a blank line in the bill has turned into a blank check signed by the taxpayers.

Today, we vote to repeal this unchecked spending power. We will also consider legislation introduced by Chairman Pitts to eliminate the Public Health slush fund that was created under Section 4002 of PPACA. In a nutshell, it is a slush fund for the secretary to spend on any activity under the Public Health Service Act – spending that would come above and beyond the amount Congress appropriates for that activity. By 2015, \$2 billion will automatically be deposited into the fund each year in perpetuity and the secretary will be able to spend the money without further congressional oversight.

I urge my colleagues to remember that we are \$14 trillion in debt. Our deficit for this year will approach \$1.5 trillion. We must prioritize our spending and ensure we are not funding duplicative programs.

My colleagues, our country is broke, and we cannot continue to spend money like we have in the past. Slush funds and unlimited taps on the Treasury must be the first to go. If my Democrat colleagues have other suggestions to reduce spending, I stand ready to work with you. Programs must be weighed and prioritized against the merit of other programs. We must get our federal spending under control, and we must begin now. I urge members to support all five health bills today.

Today we will also mark up a bill we first considered in a February hearing on the broadband stimulus funds, and last week swiftly passed through the subcommittee with a unanimous voice vote. It improves oversight of the awards and clarifies some ambiguities the Inspectors General raised regarding what happens to returned or reclaimed funds.

These are not major changes, but I think they are wise because of the large sums of money we are talking about, and because while most of the money remains to be spent, we are already seeing some funds returned or reclaimed.

I look forward to continuing to work with Ranking Member Waxman and his staff as this bill advances and we strengthen protections for the taxpayers.